

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

RICHARD J. HILL,)	
)	Case No. 2:19-cv-159-HYJ-MV
Plaintiff,)	
)	U.S. District Judge:
v.)	Hon. Hala Y. Jarbou
)	
JUSTIN WONCH,)	U.S. Magistrate Judge:
)	Hon. Maarten Vermaat
Defendant.)	

**OBJECTION TO DEFENDANT’S PROPOSED LIMITING INSTRUCTION WITH
PROPOSED ALTERNATIVE LIMITING INSTRUCTION**

Plaintiff objects to this proposed instruction (ECF No. 124, PageID.912-PageID.913) as it mischaracterizes the law. Standards and policies may be admitted with a limiting instruction. ECF No. 103, PageID.787-PageID.788. Further, the instruction is repetitive and not concise. That said, consistent with applicable caselaw, the Court has ordered that a limiting instruction be issued. *Id.* at 788.

Thus, Plaintiff proposes an alternative limiting instruction:

Police policies from Defendant’s department have been admitted into evidence and discussed by witnesses. Though police standards and policies may be considered in determining issues including whether a reasonable officer on the scene would have used the same amount of force, whether an officer’s actions were objectively reasonable in light of the facts and circumstances confronting him, or whether the amount of force used was reasonable, the violation of a police department’s policy does not necessarily amount to a constitutional violation.

Sources: Order on Motions in Limine, ECF No. 103, PageID.788; *Kiddis v. Reid*, No. 16-13070, 2018 WL 5000026 (E.D. Mich.) at *5-*6; *King v. Taylor*, 944 F.Supp.2d 548, 556 (E.D. Ky. 2013) (testimony regarding department’s policies and procedures was relevant to whether officer’s actions were objectionably reasonable); *McDonald v. City of Memphis*, 2016 WL 8201168 (W.D. Tenn. 2016)(internal affairs’ conclusion that excessive force policy was relevant on reasonability inquiry).

Respectfully submitted,

Numinen, DeForge & Toutant, P.C.

s/ Phillip B. Toutant

PHILLIP B. TOUTANT (P72992)

Attorney for Plaintiff

105 Meeske Ave.

Marquette, MI 49855

(906) 226-2580

phillip@numinenlaw.com